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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,844	08/19/2003	Jean-Claude Lancien	6980-01	4918

7590 08/25/2004

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EXAMINER

BOCHNA, DAVID

ART UNIT PAPER NUMBER

3679

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/643,844

Applicant(s)

LANCIEN, JEAN-CLAUDE

Examiner

David E. Bochna

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-10 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 8/19/03 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because it is not proper to list "French Search Report" on the IDS, as it will not be printed on the face of the patent, should this application be allowed. If the Applicant wishes the references cited in the search report to be considered by the Examiner, the Applicant should list the references cited on the search report individually on the IDS. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The phrase "The invention relates to" should be removed from the abstract.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 5-6 and 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by de Lange 4,488,739.

In regard to claim 1, de Lange discloses a spacer for putting into place on a tubular element, the spacer comprising firstly a sleeve 4 of high-compressibility cellular material 22, said sleeve presenting a wide slot extending over its entire length and defining a central passage that is essentially cylindrical (fits around cylindrical pipes 9, 10 and 19), of diameter greater than the nominal diameter of the tubular element, and secondly a sheath of heat-shrink plastics material 27, 28, 12 surrounding the split sleeve at least as far as the end edges thereof, said sheath being partially shrunk on the split sleeve firstly (the sleeve is created to be a certain size before assembly) so as to hold said split sleeve in the open state for putting the spacer into place on the tubular element, and secondly so as to be able subsequently to be heat-shrunk to clamp said split sleeve and fix said spacer in position.

In regard to claim 2, wherein the sleeve presents a slot that extends axially (see fig. 5).

In regard to claim 5, wherein the partially-shrunk sheath overlaps the end edges of the split sleeve at least in part (see fig. 4, where 27, 28 and 12 extend past 4).

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In regard to claim 6, wherein the sheath extends beyond at least one of the end edges of the split sleeve, forming a cylindrical lip of inside diameter greater than the nominal diameter of the tubular element (see fig. 4, where 27, 28 and 12 extend past 4).

In regard to claim 8, wherein the outside of the sheath presents identification marking and/or color (the sheath will inherently have some color that will identify it).

In regard to claim 9, wherein the split sleeve is made of closed-cell cellular foam (its made of foam polyurethane).

In regard to claim 10, wherein the sheath is made of plastics material that is both a heat-shrink material and suitable for providing the split sleeve with mechanical and/or chemical protection (the sheath is polyethylene or polypropylene, which provides some amount of mechanical protection).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over de Lange '739.

De Lange discloses a sleeve with a slot as described above, but does not disclose that the slot extends obliquely or helically. However, changing the shape of the slot from an axial slot to that of a helically slot would have been obvious to a person having ordinary skill in the art because a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). The present application provides no reason

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why the helical slot has any patentable significance. Thus, changing the shape of the slot in de Lange from an axial cut to that of a helically slot would have been obvious to one of ordinary skill the art.

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over de Lange '739 in view of Lever. De Lange et al. discloses a spacer as described above, but does not disclose that the sheath stops at the edges of the split sleeve. However, it would have been obvious to a person having ordinary skill in the art to end the sheath of de Lange at the end of the split sleeve because the practice of ending a sheath at the end of a sleeve is common and well known in the art as demonstrated by Lever, Winterhoff et al. and Japanese Patent 4,342,820.

Allowable Subject Matter

8. Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

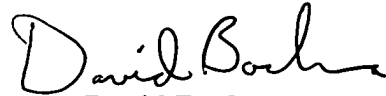
9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wyke et al., Hemphill et al., Stewart, Jr., et al., van der Linden et al., van Beersel et al., de Lange '307 and Wallyn all disclose similar couplings common in the art.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Bochna whose telephone number is (703) 306-9040. The examiner can normally be reached on 8-5:30 Monday-Thursday and every other Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703) 308-2686. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

A handwritten signature in black ink that reads "David Bochna". The signature is written in a cursive style with a large, stylized "D" and "B".

David Bochna
Primary Examiner
Art Unit 3679
August 17, 2004